

# United States District Court

## Western District of Michigan

UNITED STATES OF AMERICA

Case Number: 1:07-cr-10-01

v.

USM No. 13131-040

Dontae Brown

Jeffrey J. O'Hara  
Defendant's AttorneyDate of Previous Judgment: August 6, 2007  
(Use Date of Last Amended Judgment if Applicable)

### ORDER ADJUDICATING MOTION FOR MODIFICATION OR REDUCTION OF SENTENCE PURSUANT TO 18 U.S.C. § 3582(c)(2)

Upon motion of the defendant under 18 U.S.C. §3582(c)(2) for a reduction in the term of imprisonment imposed based on a guideline sentencing range that has subsequently been lowered and made retroactive by the United States Sentencing Commission pursuant to 28 U.S.C. §994(u), and the Court having considered such motion,

**IT IS HEREBY ORDERED** that the motion is:

☐ DENIED.

☒ GRANTED and the defendant's previously imposed sentence of imprisonment (as reflected in the last judgment issued) of 121 months **is reduced to** 120 months.

**IT IS FURTHER ORDERED THAT:**

#### I. COURT DETERMINATION OF GUIDELINE RANGE (Prior to Any Departures)

Previous Offense Level: <u>31</u>	Amended Offense Level: <u>29</u>
Criminal History Category: <u>IV</u>	Criminal History Category: <u>IV</u>
Previous Guideline Range: <u>151</u> to <u>188</u> months	Amended Guideline Range: <u>121</u> to <u>151</u> months

#### II. SENTENCE RELATIVE TO AMENDED GUIDELINE RANGE

- ☐ The reduced sentence is within the amended guideline range.
- ☐ The previous term of imprisonment imposed was less than the guideline range applicable to the defendant at the time of sentencing as a result of a departure or Rule 35 reduction, and the reduced sentence is comparably less than the amended guideline range.
- ☒ Other (explain):

Originally, the defendant received a two-level downward departure based on a 5K1.1 motion by the government and was sentenced to 121 months, which was at the bottom of the guideline range (121 to 151 months). Taking a two-level downward departure into consideration, the new guideline range would be 100 to 125 months. However, the defendant pled to a charge that carries a mandatory minimum sentence of 120 months. Absent an appropriate motion by the government, this Court is without authority to reduce a sentence below the mandatory minimum.

Except as provided above, all provisions of the judgment dated August 6, 2007 shall remain in effect.

**IT IS SO ORDERED.**

Order Date: August 20, 2010

/s/ Paul L. Maloney  
Paul L. Maloney  
Chief United States District Judge